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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,809	01/14/2004	Jesse Marcelle	27475/05203	1808
24024	7590	09/10/2004	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			GALL, LLOYD A	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 09/10/2004.

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,809

Applicant(s)

MARCELLE ET AL.

Examiner

Lloyd A. Gall

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The disclosure is objected to because of the following informalities: In the last line of paragraph 0002, a period should follow the line. In the last line of paragraph 0005, "spaced use" should be replaced with --space used--. Line 2 of paragraph 0006 is grammatically incorrect. In lines 3 and 5 of paragraph 0021, it is not clear what is meant by "as axis".

Appropriate correction is required.

Claims 2, 5, 6, 9, 14, 15 and 19 are objected to because of the following informalities: The period at the start of claim 2 should be deleted. In claim 5, line 1, "lock out" should read --lockout-- (one word) for consistency. In claim 6, line 4, "position" should be replaced with --positioned--, and a comma or semicolon should follow line 4. In claim 9, line 1, "t-shaped" should be replaced with --T-shaped--. Claims 14 and 15 are objected to since they depend from themselves. In claim 19, line 8, "positions" at the end of the line should be replaced with --position--. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Crass.

Crass teaches a first piece defined by padlock body 10, a second piece defined by the movable shackle 24, wherein an object such as a hasp may be received and locked

between the first and second pieces, and a recessed outer surface 12 (column 2, line 22) adapted to receive a label in the first piece 10.

Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ryan et al (116).

Ryan teaches an inner piece 26, an outer piece 20 telescopically engaged such that the inner piece 26 is nested within the outer piece 20 in an open position and extended from within the outer piece when the device is closed. The pieces are regarded as half cylinders.

Claims 1-8, 12, 13, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gilbert (564).

Gilbert teaches inner 50 and outer 12 half cylinders wherein the inner cylinder may be nested within the outer cylinder, and figure 8 is regarded as teaching a rail 62 of the inner cylinder received in a track/slot 34 of the outer cylinder, and tabs 40, 68 having a means 70 for receiving a padlock. With respect to claim 17, the pieces also include an opening 24, 58 for receiving an object therein. With respect to claim 5, Gilbert also teaches an interlock including a crossmember 68 on the inner piece that engages a portion 40 of the outer piece in the closed position to prevent further telescopic movement of the pieces. With respect to claim 6, in the open position, a total surface area of the device is regarded as approximately one-half the surface area in the closed position.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al in view of Crass.

Both of the references have been discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a label recessed into the outer piece 20 of Ryan et al, in view of the teaching of Crass, the motivation being to present an advertising message or warning, if desired.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert in view of Crass.

Both of the references have been discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a label in a recessed outer surface of the outer piece 12 of Gilbert, in view of the teaching of Crass, the motivation being to provide an advertising message or warning, if desired.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert in view of Wilk.

As seen in fig. 4, Wilk teaches a T-shaped sliding guide rail 50 received in a guide slot, 48, wherein the guide 50 also defines a crossmember of the rail, and the slot 48 includes two edges which abut the outside lateral edges of the flanges of the "T", and these edges include extended portions which extend inwardly and abut sides of the base of the "T". Further, with respect to claim 11, the slot 48 also includes end edges as seen in fig. 3, which limit the sliding travel of the rail 50 in the slot. It would have

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been obvious to one of ordinary skill in the art at the time the invention was made to modify the rail, slot 34, 62 of Gilbert to include a T-shaped rail defining a crossmember cooperable with limit edges of the rail slot, in view of the teaching of Wilk, the motivation being to provide a limit to the degree to which the inner and outer pieces can slide with respect to one another.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert in view of Ferrante.

Claim 14 is assumed to depend from claim 13, and claim 15 is assumed to depend from claim 14. Ferrante teaches plural aligned openings as seen at 130, 132 in figure 10 on a set of locking tabs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide plural alignable openings in the locking tabs of Gilbert, in view of the teaching of Ferrante, the motivation being to provide additional security by providing plural points of engagement of the locking tabs.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert in view of Wilk.

Gilbert teaches an interior half cylinder 12 and an exterior half cylinder 50 having a guide rail 62 slidably received in a slot track 34, and alignable locking tabs 40, 68 as set forth above. Wilk teaches a T-shaped rail 50 received in a T-shaped slot track 48, which also defines an interlock crossmember and extended edges of the slot to define limits of slidable movement, as set forth above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the rail, slot 34, 62 of Gilbert to include a T-shaped rail defining a crossmember cooperable with limit edges

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of the rail slot, in view of the teaching of Wilk, the motivation being to limit the degree to which the inner and outer pieces can slide respect respect to one another.

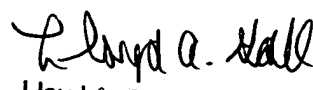
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 703-308-0828. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 703-308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LG LG
September 8, 2004


Lloyd A. Gall
Primary Examiner